

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

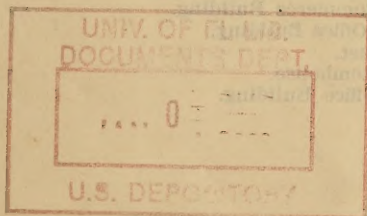
FOR THE

ABRASIVE GRAIN INDUSTRY

AS APPROVED ON MAY 21, 1934



WE DO OUR PART



UNITED STATES
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Approved Code No. 438

Registry No. 1001-04

ERRATA SHEET
CODE OF FAIR COMPETITION
FOR THE
ABRASIVE GRAIN INDUSTRY

As Approved on May 21, 1934

Page 312, Article VII, Section 8 (b) second line "filed" should be
"filled."

77095*—829-162—34



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CODE OF FAIR COMPETITION

FOR THE

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As Approved on May 21, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE ABRASIVE
GRAIN INDUSTRY**

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Abrasive Grain Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

A. R. GLANCY,
Division Administrator.

WASHINGTON, D.C.,
May 21, 1934.

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(303)

REPORT TO THE PRESIDENT

The PRESIDENT,

The White House.

SIR: This is a report on the Code of Fair Competition for the Abrasive Grain Industry of the United States, as revised after a Public Hearing conducted in Washington on the 21st day of March, 1934, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Factory employees are limited to eight (8) hours per day; clerical and office employees may work nine (9) hours in any one day but a normal work day is eight (8) hours. All employees are limited to forty (40) hours per week of six (6) days, except on emergency maintenance and repair work. During peak periods overtime is permitted to the extent of thirty-two (32) hours in any three months' period. Shipping crews and truck drivers are permitted ten per cent (10%) hourly tolerance. Certain managerial employees receiving thirty-five (\$35.00) dollars a week or more, and outside salesmen are exempt from the hourly provisions.

A minimum wage of not less than forty (40) cents per hour is established. Female employees will receive the same rate of pay as male employees for substantially the same class of work. Clerical employees will be paid not less than fifteen (\$15.00) dollars per week, and office boys, girls and messengers will be paid not less than twelve (\$12.00) dollars per week.

ECONOMIC EFFECT OF CODE

The forty (40) hour maximum week adopted by the President's Reemployment Agreement provided by the Code, and the new business since 1933 has increased employment fifty-eight (58) per cent. The average hours worked in 1929 were 52.9 which average dropped to a low of 38.7 hours in 1933. Employment in June, 1933, was only 52.3 per cent of the 1929 average but by October employment increased to 82 per cent.

Wages per hour averaged 62.1 cents in 1929 and showed an increase to 65.1 cents in 1933. The Industry has an invested capital of over \$10,000,000.00 and shows average yearly sales of approximately \$5,500,000.00 for the past five (5) years.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that applicant group is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, this Code has been approved by me.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MAY 21, 1934.

CODE OF FAIR COMPETITION FOR THE ABRASIVE GRAIN INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Abrasive Grain Industry, and shall be the standard of fair competition for such Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Abrasive Grain Industry" or "Industry" is defined to mean the manufacture in electric furnaces of mineral abrasives and/or the reduction of electric furnace mineral abrasives or natural mineral abrasives to grain sizes and the sale of these products by the manufacturer.

SECTION 2. The term "Association" means the Abrasive Grain Association.

SECTION 3. The term "Employee" as used herein includes any and all persons engaged in the Industry, however compensated, except a member of Industry.

SECTION 4. The term "Employer" as used herein includes anyone by whom any such employee is compensated or employed.

SECTION 5. The term "Member of the Industry" includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the Industry, either as an employer or on his or its own behalf.

SECTION 6. The term "Act" means Title I of the National Industrial Recovery Act.

SECTION 7. The term "Administrator" means the Administrator for Industrial Recovery.

SECTION 8. The "President" as used herein means the President of the United States.

ARTICLE III—HOURS

SECTION 1. No employee, except as hereinafter provided, shall be permitted to work in excess of forty (40) hours in any seven (7) day period, or more than eight (8) hours in any twenty-four (24) hour period provided, however, that during any period in which a concentrated demand upon any division of the Industry shall place an unusual and temporary burden for production upon its facilities, an employee of such division may be permitted to work not more than thirty-two (32) additional hours in any three (3) months' period, but not more than forty-eight (48) hours in any seven (7)

day period, or more than eight (8) hours in any twenty-four (24) hour period; and provided further that there shall be no intentional duplication of such additional hours worked by employing one gang of workmen after another for this purpose.

SECTION 2. No accounting, clerical, office, service, or sales employees, except as hereinafter provided, shall be permitted to work in excess of forty (40) hours in any one week or nine (9) hours in any one day. A normal day shall not exceed eight (8) hours.

SECTION 3. The maximum hours fixed in the foregoing sections shall not apply to employees in a managerial, supervisory, or executive capacity, receiving thirty-five (35) dollars or more per week, or to outside salesmen. Furthermore, employees on emergency maintenance and repair work involving break-downs or protection of life and property, may be employed in excess of the maximum hours fixed in the foregoing sections.

SECTION 4. All employees to whom Sections 1, 3 and 6 of this Article III apply, excepting managerial, executive, and supervisory employees, receiving thirty-five (35) dollars or more per week, who work more than forty (40) hours in any seven (7) day period, or who work more than eight (8) hours in any twenty-four (24) hour period, shall be paid not less than one and one half ($1\frac{1}{2}$) times their normal rate of pay for such excess hours.

SECTION 5. No watchmen shall be permitted to work in excess of fifty-six (56) hours in any one week.

SECTION 6. Employees engaged on shipping crews, including truck drivers, shall be permitted a tolerance of ten (10) percent over the forty (40) hours provided in Section 2 of this Article III.

SECTION 7. No employee shall be permitted to work in excess of six (6) days in any one (1) week.

SECTION 8. No employer shall knowingly permit any employee to work for any time which, when totalled with that already performed for another employer or employers, exceeds the maximum permitted herein.

ARTICLE IV—WAGES

SECTION 1. No employee, except as otherwise herein provided, shall be paid less than at the rate of forty (40) cents per hour.

SECTION 2. Prompt adjustments shall be made in all rates in which equitable adjustments have not been made, or are not in effect. In no case shall the hourly rate be reduced and no change shall be made in piece-work rates which will reduce the former hourly or daily earnings of piece workers. Each member shall report such adjustments to the Code Authority within thirty (30) days after the effective date and to the Administrator on his request.

SECTION 3. No employer shall re-classify employees or duties of occupations performed, or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

SECTION 4. Employers shall agree with employees to make payment of all wages weekly in lawful currency, or by negotiable check, payable on demand. Such wages shall be exempt from any payment for pensions, insurance, or sick benefits other than those voluntarily paid by employees. Employers, or their agents, shall not accept directly or indirectly, rebates on such wages, or give anything of

value, or extend any favors, to any person for the purpose of influencing rates of wages, or working conditions, of their employees.

The provisions of this section regarding payment of wages weekly shall not apply to persons employed in a managerial or executive capacity who earn not less than thirty-five (35) dollars per week, or to persons employed in clerical or office work. Wages for persons employed in clerical or office work may be paid at the end of pay periods not to exceed bimonthly periods.

SECTION 5. The minimum wage that shall be paid to employees to whom Section 2 of Article III applies shall be not less than fifteen (15) dollars per week; provided, however, that office boys and girls and messengers may be paid at a rate of not less than eighty (80) percent of the minimum salary established in this Section 5 of Article IV herein; and provided, further that the number of such office boys and girls and messengers so paid shall constitute not more than three (3) percent of the total number of employees of any one employer, but in any case such employer shall be entitled to two (2) such employees.

SECTION 6. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code, if the employer obtains from the State Authority, designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

SECTION 7. Female employees performing substantially the same work as male employees shall receive the same rate as male employees, and where they displace male employees they shall receive the same rate of earnings as the men they replace.

SECTION 8. This Article establishes minimum rates of pay irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the Industry and no person under eighteen (18) years of age shall be employed at operations or occupations hazardous in nature or detrimental to health. In any State an employer shall be deemed to have complied with the provisions if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age. The Code Authority shall submit to the Administrator for approval, within three (3) months after the effective date of this Code, a list of operations or occupations hazardous in nature or detrimental to health.

SECTION 2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers

of labor, or their agents, in the designation of such representatives or in self organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

SECTION 3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

SECTION 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SECTION 5. No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary, or general working conditions, or insurance or fire protection, than are imposed by this Code.

SECTION 6. Each employer shall post and keep posted in a place easily accessible to all employees in every plant or factory copies of the labor provisions of this Code. The posting of the labor provisions of this Code shall be in accordance with rules and regulations of the President or the Administrator.

SECTION 7. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

SECTION 8. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six (6) months after the effective date of this Code.

SECTION 9. No employee shall be dismissed by reason of making a complaint or giving evidence with respect to a violation of this Code.

ARTICLE VI—ADMINISTRATION

SECTION 1. (a) To effectuate the policies of the Act, a Code Authority is hereby constituted. The Code Authority shall consist of not less than seven (7) persons and not more than eight (8) persons. Seven members shall be selected from the Association by a fair method of selection and one member who is not a member of the Association may be selected from the Industry by non-members of the Association.

The Administrator may appoint one (1) to three (3) members without vote to represent the Administrator.

(b) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code. Each member of the Industry shall bear his or its proportionate share of the expenses of the Code Authority and the administration of the Code, which proportionate share shall be based upon the gross sales (less discounts and returns) or upon such other fair and equitable basis as the Code Authority may specify, subject to review by the Administrator, and such funds shall be collected by the Code Authority.

(c) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority, shall (1) impose no inequitable restriction on membership, and (2) submit

to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(d) In order that the Code Authority shall, at all times, be truly representative of the Industry, and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter, if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

(e) If the Administrator shall at any time determine that any action of a Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 2. The Code Authority shall have the following powers and duties.

(a) Subject to such rules and regulations as may be issued by the Administrator, to insure the execution of the provisions of this Code and to provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from members of the Industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the Industry subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such federal and state agencies as he may designate; provided that nothing in this Code shall relieve any member of the Industry of any existing obligations to furnish reports to any government agency. No individual report shall be disclosed to any other member of the Industry or any other party except to such other governmental agencies as may be directed by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To make recommendations to the Administrator for the co-ordination of the administration of this Code with such other codes, if any, as may be related to or affect members of the industry.

(f) To secure from members of the Industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(g) To cooperate with the Administrator in regulating the use of any National Recovery Administration insignia solely by those members of the Industry who have assented to, and are complying with, this Code.

(h) To recommend to the Administrator any action or measures deemed advisable, including further fair trade practice provisions to govern members of the Industry in their relations with each other or with other industries; measures for industrial planning and stabilization of employment; and including modifications of this Code which shall become effective as part hereof upon approval by the Administrator after such notice and hearing as he may specify.

(i) To appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Industry for the purpose of formulating fair trade practices to govern the relationships between employers under this Code and under such others to the end that such fair trade practices may be proposed to the Administrator as amendments to this Code and such other Codes.

(j) To provide appropriate facilities for arbitration, and subject to the approval of the Administrator, to prescribe rules of procedure and rules to effect compliance with awards and determinations.

ARTICLE VII—TRADE PRACTICES

It shall be an unfair method of competition and a violation of this Code for any member of the Industry to engage in any of the following practices:

SECTION 1. The false marking or branding of the products of the Industry, with the intent of misleading or deceiving purchasers with respect to the quantity, quality, size, or substance of the goods purchased.

SECTION 2. Making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the quality, quantity, substance, character, nature, origin, size, or preparation of any product of the Industry, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers or to affect injuriously the business of competitors.

SECTION 3. The imitation of the trade marks, trade names, or other marks of identification of competitors, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

SECTION 4. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, or questionable credit standing, or by other false representation, or the false disparagement of the quality of their goods.

SECTION 5. Wilfully inducing or attempting to induce the breach of existing contracts between competitors and their customers, or interfering with or obstructing the performance of any such contractual duties or services, with the purpose and effect of hampering, injuring, or embarrassing competitors in their business.

SECTION 6. The payment or allowance to any customer of secret rebates, refunds, or credits, whether in the form of money or otherwise.

SECTION 7. Commercial Bribery: Giving, permitting to be given, or directly offering to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal, or party; provided, however, that this provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

SECTION 8. Price Guarantees shall not be given except in the following form:

(a) On bona fide orders covering definite quantities of definite specifications, the price prevailing on the date the order is placed shall apply to all shipments made within eight (8) weeks of the date of the order. On such shipments as may be deferred beyond the eight (8) weeks' period, at the request of the customer, the price prevailing at the time of shipment shall apply.

(b) Any written quotation accepted by a customer within ten (10) days for shipment within eight (8) weeks may be filed at the price quoted.

SECTION 9. Each member of the Industry within twenty (20) days after the effective date of this Code shall file with the Code Authority a net price list or price list and discount sheet, as the case may be, and all special prices, freight allowances, and trade discounts, individually prepared by him, showing his current prices, or prices and discounts and terms of sale and payment, and if he so desires, the names of his customers, to whom limit prices are quoted. This information shall be open to examination at the office of the Code Authority to all interested parties as each may be concerned. No member of the Industry shall deviate from his prices as thus filed unless and until revised lists, which shall become effective immediately upon filing, shall have been filed with the Code Authority, copies of which shall in like manner be available for examination. No member of the Industry shall sell his products at prices, or on terms, more favorable than those provided in his current net price list, or price list and discount sheet, as submitted to the Code Authority, except as otherwise provided herein, nor shall he grant quantity prices, except on the inclusion in one shipment to one destination of the quantity on which such price is granted, provided, however, if any member of the Industry, acting in good faith, is unable to make delivery in one shipment of all the material ordered by a consumer customer upon which order such customer has been granted a quantity price, such member shall be permitted to make immediate shipment of the quantity or quantities of the product in his hands available for that purpose, and to make complete shipment of the remainder of such order as soon as possible thereafter, provided however that each portion of such order to be known as a "split shipment" so shipped shall be accompanied by an invoice which in each case shall show the total quantity of the order for such product, and the quantity of the product included in each individual invoiced shipment; copies of all invoices covering such split shipments must be filed immediately

with the Code Authority; and provided, further, that those individual sizes of abrasive grains recognized in the Industry as surplus stock and so classified by the Code Authority may be offered or sold by any party to this Code for not less than sixty six and six tenths (66.6) per cent of the highest price for like quantity of such size or sizes filed by said party; all such quotations or sales shall be immediately reported in writing to the Code Authority in the manner to be prescribed by it.

SECTION 10. Abrasive Grains may be furnished for trial purposes only under the following terms:

Full payment is to be made if grains are satisfactory, or if partially satisfactory and usable, to be paid for on the basis of value received, or if unusable, to be returned for full credit. Any deviation from these terms shall be considered as unfair competition.

SECTION 11. Giving or offering to give for free trial of abrasive grains in excess of fifteen pounds of any one size or kind at any one time is an abuse and is hereby defined as unfair competition.

SECTION 12. Conditioning the sale of any particular material upon the purchase by a customer of other products of the supplier, is defined as unfair competition.

SECTION 13. Placing any product of the Industry in the possession of or under the control of a consumer customer on consignment is hereby defined as unfair competition.

ARTICLE VIII—MODIFICATION

SECTION 1. This Code, and all the provisions thereof, is expressly made subject to the right of the President, in accordance with the provisions of Sub-Section (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code, or any conditions imposed by him upon his approval thereof.

SECTION 2. This Code, except as to provisions required by the Act, may be modified or supplemented on the basis of experience or changes in circumstances, such modifications to be based upon application by the Code Authority to the Administrator with such notice of hearing as he shall specify, and to become effective on approval by the President.

ARTICLE IX—MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE X—EFFECTIVE DATE

This Code shall become effective on the third Monday after its approval by the President and shall be binding upon every member of the Industry.

Approved Code No. 438.
Registry No. 1001-04.

UNIVERSITY OF FLORIDA



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